

MINUTES
GAMING ADVISORY COUNCIL

October 3, 2003
Wingate Inn
Missoula, Montana

Please note: This is a summary of the Council meeting. The meeting in its entirety is on tape at the Gambling Control Division office at 2550 Prospect Avenue, Helena, Montana. Exhibits are on file in the office of the Gambling Control Division.

COUNCIL MEMBERS PRESENT

Senator Dale Mahlum, Chairman
John Tooke
Nick Murnion
Tim Carson
Kevin Howlett

Steve Morris
Bill Thomas
Pam Kennedy
Rep. John Witt, Excused Absence

DIVISION STAFF PRESENT

Gene Huntington
Rick Ask
Kathy Baertsch

Ben Kamerzel
Cregg Coughlin
Larry Renman

SUMMARY OF COUNCIL ACTION

- ◆ **Attorney General McGrath thanked the Council for their time and effort and the work they have done on many large issues.**
- ♠ **The Council discussed the New Games issues and requested that the Division survey live bingo and live keno operators to determine concerns on changing payout limits.**
- ♣ **The New Games Subcommittee recommended 6 changes including additional poker games for video draw poker machines and second screen bonuses.**
- ♥ **The Council decided to pursue the proposed maximum odds regulation at the December meeting.**
- ◆ **The Council viewed a presentation by Bearing Point: Technology Options for Video Gambling in Montana**
- ♠ **The Council unanimously passed a motion that statutes be drafted related to illegal machines and a proposed test lab.**
- ♣ **The Council unanimously passed a motion for the Division to draft rules to deal with the Shake-a-Day rules.**
- ♥ **The Council tentatively set the next meeting in Helena on December 3, 2003.**

CALL TO ORDER AND ROLL CALL

Chairman Mahlum called the meeting to order at 9:30 a.m. All members were present except for Rep. John Witt, who was excused. The minutes from the May 16, 2003 meeting were adopted unanimously.

ATTORNEY GENERAL MIKE MCGRATH

Montana Attorney General, Mike McGrath addressed the Council. Attorney General McGrath thanked the Council for their time and effort and the work they have done on many large issues. Attorney General McGrath stated that the Council is working on two related issues – the future of AARS and the development or potential development of new games.

NEW GAMES ISSUES

Discussion

Gene Huntington, Gambling Control Division Administrator, explained how the New Games subcommittee evolved and that video gambling machine games have been defined by the live games that they imitate. The original rules that were written were tied to how the live games were played. The Department adopted Scarnes' Encyclopedia of Card Games as the reference on how to play poker. In 1999, when the Legislature passed AARS, it deleted the direction to follow the old statutory definition and didn't put anything in its place. Mr. Huntington indicated that some people feel that by deleting it the Legislature was stating that the Department does not have to be restrained by those old rules. The current law states that a video draw poker machine must play or simulate the game of draw poker. In rules it states that the images cannot simulate an illegal gambling activity (can't look like reel games). Mr. Huntington explained that when a new keno game is submitted, Ben Kamerzel has a check list for new games that goes back to the statutes and rules.

Mr. Huntington explained that manufacturers and operators complained that the entertainment quality from the machines has been stifled because changes in technology have not kept pace in Montana. Mr. Huntington indicated that some of the proposed changes include winning free games, multipliers, what is displayed on the screen, and pay table changes with bonuses. The Division would like to have a clear standard that is easily understood; have a level playing field so that all parts of the industry are treated uniformly; and for rules to have a clear purpose for what the Division is doing.

Mr. Howlett questioned how the bonus screen worked and Rich Miller explained that whatever you have already won on the first screen is retained, when you go to the second screen you either increase that prize or add to that prize or add free games, but you never decrease the amount of the initial award.

A discussion followed concerning how bonus features and free games work and how these features affect the paytables. During a break representatives of IGT provided a demonstration of the bonus features and multiple hand poker games.

New Games Subcommittee Report

Mr. Carson reminded everyone that this report is a work in progress. Mr. Tooke explained the report. The Subcommittee requested that the Division survey live bingo and live keno operators to determine concerns regarding changing payout limits. The Subcommittee also recommends the following changes: (1) in addition to draw poker that “Texas Hold’em,” “5 Card Stud” and “7 Card Stud” be added to the statutory definition of games that can be played on video poker machines; (2) provide for “second screen bonuses” that allow a game other than bingo, poker or keno as long as the game is free and the player cannot lose any credits on the second screen bonus; (3) provide that at least one-fourth of the screen must show images that are reasonable representations of the games of bingo, poker or keno; (4) provide the Department with rulemaking authority to develop rules limiting the use of images that might be considered offensive or appeal exclusively to children; (5) provide general statutory policy on how the game rules and pay table must be displayed prior to the player inserting money or wagering credits; and (6) provide maximum odds for any video gambling machine game prize that is offered. The Subcommittee requested that the Division should conduct research to determine that the odds used by other states reflect the speed at which modern machines and games are played.

Chairman Mahlum thanked the committee members for their hard work.

Testimony and Discussion of New Games

Rich Miller explained that the second screen bonus should allow the player to win credits in addition to the credits already won, multiply the credits already won or win free games. Mr. Miller added that the rules and pay table must be able to be displayed prior to the player inserting money or wagering credits.

Rhonda Carpenter, Montana Coin Machine Operators Association, questioned the need for the ability to see the original game while in the second or bonus screen. She also stated that Montana’s market is limited compared to the big picture and that this requirement could be less than financially feasible to the manufacturers. Mr. Carson stated that the player needs to be able to understand what game he was originally playing.

David Kraft, interested party from Bozeman, commented on the proposed maximum odds regulation. Mr. Kraft stated that this is an issue that the state really doesn’t need to delve into. Mr. Tooke asked Mr. Huntington about the history of this issue. Mr. Huntington stated that this is related to the bonus and additional features. He explained that at some point the chance to win something is not realistic; once you go into the bonus situation should the Division allow people to put games on that statistically people will probably

never win? Sen. Mahlum stated that this subject will be explored further at the December meeting.

Lon Huckert, VLC, asked if the Division wants to restrict itself to the specific games of Texas Hold'em, 5 Card Stud and 7 Card Stud or to include stud games in general. Mr. Tooke stated that while there several Hold'em games and other stud games but that they decided to limit it to those three games. Mr. Huntington commented that the Division has to know what games are specifically authorized when it evaluates new game proposals.

BEARING POINT PRESENTATION

Mr. Huntington explained the Division's need to have an assessment of what the Division needs to do and how technology needs to be applied with respect to AARS. Bearing Point was retained to assess the situation. Charles Meredith presented the initial findings concerning Gambling Control and the gaming industry in Montana. The report addressed what the best technology choices are, the best way to fund it and implementation. There are three technology options: web entry, dial-up and online. Mr. Meredith explained that the three distinct industry groups: large route operators (10 operators own 52% of the vgms), other route operators (20% of vgms) and independent establishments (30% of vgms) have different needs. Mr. Meredith stated that at least two systems is a likely outcome, web entry would be the starting point and then either a dial-up or online system. Mr. Meredith concluded that all the stakeholders need to reach a consensus on the following common needs: data capture requirements; promotions systems structure; technology solution; funding – overall budget and funding; implementation; and legislation changes.

Mr. Murnion asked how promotions would work and Mr. Meredith explained promotions such as frequent player's cards. The operator can track the player's habits and reward them for frequent play.

Mark Staples, Montana Tavern Association, stated that he believes there is a need for efficiency and technology; he also stated that big bucks are not being lost due to record keeping penalties, etc. The real net after the expenses has been found to be an average of 8%. Mr. Staples believes that to suggest that a \$10 to \$20 million system could be paid by the industry without a serious impact would be giving a false impression. He also explained that the real net was 12% four years ago so it has been going down; he asked that the Council keep this in mind with respect to a \$10 million system for \$100,000 in errors. Mr. Staples stated that player tracking is not something that the majority of the little operators are going to support. He declared that the problem has to be matched to the system.

Mr. Huntington explained that currently there is an exception for smaller towns (population less than 3,000) and establishments with less than 5 machines are not required to hook up.

Pam Kennedy asked if there could be a two-step system – the first system to do a web-based system and the second to add the dial-up to it. Mr. Huntington stated that the web would solve the State's problem but that in a year someone will want to implement a system to connect their machines and there may be many systems around the state being utilized without any guidance. He explained that that is the reason a decision needs to be made on what level of technology the State wants to pursue.

LON HUCKERT – PRESENTATION OF PROPOSED CHANGE IN LAW RELATED TO ILLEGAL MACHINES AND A PROPOSED TEST LAB

Lon Huckert, VLC, explained that VLC was recently bought out by IGT and through the buyout, the Bozeman staff has been reduced, resulting in a number of former Bozeman employees with an abundance of video gaming experience who are looking for jobs. Mr. Huckert stated that he believes there is a need for a testing facility in addition to the other ones that are out there, because they are not offering the services that are necessary. The testing facility would be hired by video lottery jurisdictions to validate their software in compliance with the rules and regulations for the respective state. Mr. Huckert is proposing to have a testing lab in Bozeman to contract with different manufacturers around the country to test the machine hardware and software. To do that, the machines to be tested would need to be brought into Montana. He explained that those machines are illegal in this state and the law, as written, states that the only people who can have illegal gambling machines are manufacturers, so it doesn't allow for the independent testing operation. The Gambling Control Division has proposed amendments for the statutes that would allow such testing.

Mr. Carson stated that this is something that needs to be fixed in the legislature so that this facility can conduct business in the state. Mr. Tooke asked if there are any federal laws, like the Johnson Act that apply to this problem. Mr. Huckert answered that this is just a state consideration.

Bill Thomas moved that the drafted statute changes be ready to be submitted for a special legislative session. Pam Kennedy seconded the motion. The motion passed unanimously.

ADMINISTRATOR'S REPORT

Mr. Huntington provided a report on current activities at the Division. Mr. Huntington explained that at the last meeting Mr. Reger had discussed the problems he was having with bill acceptors on old machines. The Division met with Mr. Reger and confirmed that he could not locate the manufacturer of the old machines. The Division told Mr. Reger that he if he could locate a manufacturer to help with his problem he was authorized to do so.

Mr. Huntington explained that the Division has implemented the permanent surcharge rule and has had few complaints. Fingerprinting rules also became effective September 12, 2003; the Division had no comments submitted during the rulemaking process. The

multi-game agreements rule needed to be amended because the AARS system has not been implemented. Licensees can get out of the agreement if they take the software off of their machine. Mr. Huntington indicated that agreements are coming in, especially from route operators. The Division will have a spread sheet available that indicates what locations have agreements, what owners have agreements, by counties or however the information is requested. As of October 2 there are 12 locations and 83 vgms signed to the agreement.

Mr. Huntington explained that the State has opened negotiations with Fort Peck, Rocky Boy and Fort Belknap and are just starting negotiations with the Crow. The Crow compact expires March 2004. The State has just received an extension until July 2004 with Fort Peck, there was a simple amendment to let them have the \$1,500 payout limit. Rocky Boy and Fort Belknap negotiations have had very little activity and the State is waiting for the tribes to come back with proposals. The Crow compact will be significant and negotiations are expected to start within the month.

Mr. Huntington distributed the gaming statistics and explained that there has been an increase of video gambling machines permitted; the number of operator licenses issued is down a little bit, but will increase as the year goes on; and the video gambling machine gross income tax revenues have increased about 5.5% from the previous year.

Mr. Tooke asked what the dollar amount was that was brought in from the surcharge. Mr. Ask stated that he did not have the current figures, but the fiscal note stated no more than \$200,000.

Mr. Morris asked about the changes in the quarterly tax reports. Kathy Baertsch stated that the changes were that multi-games were added to the form. Ms. Baertsch explained that those locations with computer generated forms needed to update their forms to conform with the new quarterlies. The mechanical meter readings were changed to seven digits.

PROBLEM GAMBLING REPORT

Rich Miller, Executive Director of the Gambling Industry Association, explained that there is the 800 number that you can call for help from a trained counselor and that throughout the state posters are up in most of the bars and casinos. The Hotline is located in Texas and handles gambling problems for about 29 jurisdictions. As of August 31 the Hotline closed, only giving Montana 10 days notice. Consequently, another provider was found and the Hotline calls are going to the State of Delaware. The biggest impact is due to the time difference. There is better coverage from 8 a.m. to 5 p.m. Eastern Standard Time with true professionals on the line; from 5 p.m. to 8 a.m. you get a person who refers you to a licensed person on call. Mr. Miller explained that there may be another change in the next year with all the hotlines in the United States having to do with problem gambling may be taken over by the National Council on Problem Gambling. Mr. Miller explained that there is no state money spent on the Hotline. When the Hotline was located in Texas it cost the industry \$1,500 month, now it is going to cost \$1,750 per

month. The Montana calls range from 32 calls in one month to 117 calls in one month. Texas handled 2,000 calls per month. Delaware anticipates handling around 2,000 to 2,200 calls. Callers can be referred to local Gamblers Anonymous meetings or to 17 clinicians running counseling groups around the state. Group treatment costs \$5 from each person who shows up and then bills the Montana Council \$85 per session which is paid for by industry donations. In an average month 48 groups meet with an average of 163 people per month participating. An average of 8.3 people are new attendees each month.

Mr. Howlett asked if there was any demographic information available that would indicate that those people who can least afford it are the ones who find themselves in the greatest trouble. Mr. Miller stated that there are some confidentiality issues involved. The Council has circulated a release of liability to all clinicians and to all attendees that it is strictly for statistical purposes and hopes to have demographic data next year at this time.

PROPOSED RULES

Shake-A-Day Rules

Mr. Huntington distributed proposed changes to the shake-a-day rules. The proposed rules would clarify the play of shake-a-day. Larry Renmann, Gaming Investigation Bureau, Western Regional District Supervisor, explained that the shake-a-day statute encompasses two different things, shaking for drinks and the shake-a-day; it has become convoluted into one thing where people are shaking for drinks in the process of the shake-a-day. The problem is that the statute specifically states that the money paid in to play has to be paid out as winnings. If a bar allows a person to shake for a drink and then the person wins a six pack and the bar takes the money out of the shake a day pot to pay the retail price for the six pack the bar is now taking a profit. This inadvertently turns the game into an illegal game. Mr. Renman stated that 80% of the problems investigators run into in bars, are infractions involving shake-a-day games.

Pam Kennedy moved that the Division draft rules to take care of this problem. Bill Thomas seconded the motion. The motion passed unanimously.

Tolling of Applications

Mr. Huntington discussed that under Senate Bill 40 the Division and Revenue will be tolling applications. When someone applies for a license, the clock starts running. If the application isn't complete within 30 days, it is sent back, unless there is a certain reason to stop the clock. Under the law in the case of new construction or substantial remodel, the clock does not run because it has to be submitted, but the application can't be completed until construction is done. The Division believes that most people, for whatever reason, who have a delay in their application, will consent to having it taken off the clock. If people don't consent, the Division will need rules to deal with what type of situation is applicable to taking people off the clock. The clock provides that the

Division process applications promptly. If an applicant does not agree to put his application on the hold list, then the alternative is that the Division would have to send the whole application package back at the end of 30 days and the applicant would have to start over again. Mr. Huntington explained that the application list will now show how many days it has taken for applications that have no problems; there will be another list for applications with problems that are in limbo for some reason. These lists will better reflect what the Division is doing. Mr. Huntington stated that at this point, applications with no problems are taking between 40 and 60 days.

OTHER BUSINESS

Mr. Carson stated that now that the machines are moving to multi-game scenarios there is an issue concerning the audit tapes that are printing out of them. The rule requires game break down on the tickets and Mr. Carson would like to visit that area to suggest proposed rule changes. Mr. Carson believes that the length of the ticket needs to be shortened. Mr. Kamerzel explained that the data on the ticket is used by auditors and field inspectors.

Mr. Huntington stated that a survey will be submitted to bingo and live bingo keno operators to get their feedback on proposed statute and rule changes.

Mr. Carson asked what the next step will be, regarding the Bearing Point Presentation. Mr. Huntington replied that Bearing Point is required contractually to come up with a recommendation. The Division anticipates receiving that recommendation in the next couple months. Mr. Huntington expects a draft or final report by the next Council meeting.

FINAL BUSINESS

The next meeting will be in Helena December 3, 2003.